



Patent
Attorney's Docket No. 1033541-000005

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) **MAIL STOP AMENDMENT**
Heinz Bannasch et al.)
Application No.: 10/574,532) Group Art Unit: 3641
Filed: December 1, 2006) Examiner: Troy Daniel J
For: METHOD AND APPARATUS FOR) Confirmation No.: 4115
PROTECTING SHIPS AGAINST)
TERMINAL HOMING PHASE-)
GUIDED MISSILES)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Official Action dated May 2, 2008, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I: Claims 1-12, drawn to a method for protecting ships; and
Group II: Claims 13-26, drawn to a protective system apparatus.

Accordingly, Applicants provisionally elect Group II, the subject matter of Claims 13-26, with traverse. Applicants submit that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner will search the same classes of art as is required to search the invention of the elected claims, resulting in the same references being cited against all of the aforementioned groups of claims.

Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. Section 803, there are two criteria for a proper restriction requirement between

patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a **serious burden** on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional restriction is hereby made without prejudice to Applicants' right to file a divisional application or applications should the restriction requirement become final.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: June 2, 2008

By:



Patrick C. Keane
Registration No. 32858

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620